

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

BOBBY RUTLEDGE,	:	
	:	
Petitioner	:	
	:	
VS.	:	
	:	NO. 5:07-cv-86 (CAR)
Warden HUGH SMITH,	:	
	:	
Respondent	:	<b><u>ORDER</u></b>

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Before the Court is petitioner **BOBBY RUTLEDGE’S** request for a Certificate of Appealability (“COA”) (Tab #s 74 & 79) from the Court’s March 25, 2010, order, which adopted Magistrate Judge Claude W. Hicks’s recommendation that petitioner’s 28 U.S.C. § 2254 motion be denied. Under section 2253(c)(2), a COA may issue only if the applicant makes “ a substantial showing of the denial of a constitutional right.” This requires a petitioner to demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

For the reasons stated in Magistrate Judge Hicks’s recommendation and this Court’s order accepting the same, the Court finds reasonable jurists could not find that a dismissal of petitioner’s claims was debatable or wrong. Accordingly, it is hereby **ORDERED** that petitioner’s application for a COA be **DENIED**.

Also before the Court is petitioner’s motion for leave to proceed *in forma pauperis* on appeal (Tab # 80). Said motion is **DENIED AS MOOT**.

**SO ORDERED**, this 17<sup>th</sup> day of May, 2010.

S/ C. Ashley Royal  
C. ASHLEY ROYAL, JUDGE  
UNITED STATES DISTRICT COURT